

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE ANDY WARHOL FOUNDATION FOR THE VISUAL
ARTS, INC.,

PLAINTIFF,

-AGAINST-

LYNN GOLDSMITH AND LYNN GOLDSMITH, LTD.,

DEFENDANTS.

No. 17-cv-02532-JGK

JOINT STIPULATION AND ~~PROPOSED~~ ORDER STAYING THE ACTION

The parties in the above-captioned matter (the “Parties”), by and through their counsel of record, hereby stipulate to the following:

WHEREAS, on July 15, 2019, this Court entered a Judgment and Order (Dkt. 87) granting The Andy Warhol Foundation for the Visual Arts, Inc.’s (“AWF”) motion for summary judgment, denying Lynn Goldsmith and Lynn Goldsmith, Ltd.’s (together, “Goldsmith”) motion for summary judgment, and dismissing Lynn Goldsmith’s counterclaim with prejudice;

WHEREAS, on August 7, 2019, Goldsmith filed a Notice of Appeal (Dkt. 91) to the United States Court of Appeals for the Second Circuit of this Court’s Judgment and Order;

WHEREAS, on August 20, 2019, Goldsmith filed a notice of substitution of counsel for the appeal (Case 19-2420, Dkt. 13) substituting Thomas G. Hentoff of Williams & Connolly LLP for Joel L. Hecker of Law Offices of Joel L. Hecker and Barry Werbin of Herrick Feinstein; LLP;

WHEREAS, on September 15, 2020, following briefing by the Parties, a Second Circuit panel (Judges Jacobs, Lynch, and Sullivan) (the “Panel”) heard oral argument on Appellant’s appeal (Case 19-2420, Dkt. 197);

WHEREAS, on March 26, 2021, the Panel reversed the Judgment of this Court (Case 19-2420, Dkt. 207);

WHEREAS, on April 21, 2021, AWF filed notices of appearance of additional counsel from the law firm Latham & Watkins LLP (Case 19-2420, Dkt. 225-229);

WHEREAS, on April 23, 2021, AWF's petition for panel rehearing and/or rehearing *en banc* (Case 19-2420, Dkt. 225-229) was filed;

WHEREAS, on May 13, 2021, Goldsmith's opposition to AWF's petition (Case 19-2420, Dkt. 277) was filed;

WHEREAS, on May 20, 2021, AWF's reply in further support of its petition (Case 19-2420, Dkt. 280) was filed;

WHEREAS, on August 24, 2021, the Panel issued an Amended Opinion (Case 19-2420, Dkt. 285) and granted AWF's petition for panel rehearing (Case 19-2420, Dkt. 288);

WHEREAS, on September 10, 2021, the Second Circuit denied AWF's petition for a rehearing *en banc* (Case 19-2420, Dkt. 294);

WHEREAS, on September 17, 2021, the Second Circuit issued an amended judgment (Case 19-2420, Dkt. 297) reversing this Court's grant of summary judgment to AWF, vacating this Court's dismissal of Goldsmith's counterclaim, and remanding the case to this Court for further proceedings;

WHEREAS, on October 20, 2021, this Court scheduled a status conference on October 26, 2021 at 4 p.m. (Dkt. 95);

WHEREAS, AWF's petition for a writ of certiorari to the Supreme Court of the United States is forthcoming and is due on December 9, 2021;

WHEREAS, the Parties agree that in the interest of preserving the Court's and the Parties' resources and efficiently managing the case, it is appropriate to stay this action until the Supreme Court of the United States rules on AWF's forthcoming petition for a writ of certiorari, and to the extent the Supreme Court grants AWF's petition, until the ultimate resolution of that appeal;

NOW, THEREFORE, IT IS HEREBY STIPULATED, by and between the undersigned counsel for the Parties, subject to the approval of the Court, as follows:

1. This action, including the October 26, 2021 status conference, shall be stayed pending the resolution of AWF's forthcoming petition for a writ of certiorari, and to the extent the Supreme Court grants AWF's petition, until the ultimate resolution of that appeal;

2. Nothing herein shall be construed as a waiver of any Party's rights, or as a waiver of any defenses that any Party would otherwise have, and the Parties reserve all such rights.

SO STIPULATED AND AGREED by and between the parties this 25th day of October, 2021.

By: /s/ Joel L. Hecker

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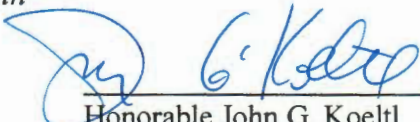
By: /s/ Luke Nikas

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Attorneys for AWF

SO ORDERED:



Honorable John G. Koeltl
United States District Judge